

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

BARRY D. GIVENS, SR., §
§
Plaintiff, § Civil Action No. **3:10-CV-1164-L**
v. §
§
EDDIE DEEN & CO. CATERING, §
§
Defendant. §

ORDER

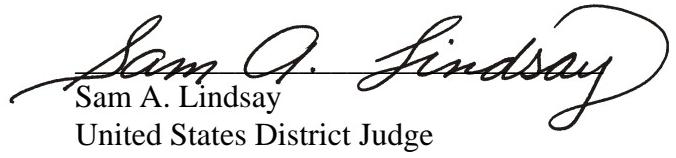
Before the court are the Findings, Conclusions, and Recommendation of the United States Magistrate Judge, filed December 30, 2010. Plaintiff Barry D. Givens, Sr. (“Plaintiff” or Givens”) filed a Final Amended Complaint on January 10, 2011. Defendant Eddie Deen & Co. Catering (“Defendant” or “Eddie Deen”) filed a Motion to Dismiss Plaintiff’s Final Amended Complaint on January 11, 2011.

Plaintiff filed his Original Complaint on June 11, 2010. Defendant filed a Motion to Dismiss Plaintiff’s Complaint on October 25, 2010. Plaintiff filed a Amended Complaint on November 17, 2010. Defendant then filed a Motion to Dismiss Plaintiff’s Amended Complaint on November 23, 2010. Plaintiff filed a Second Amended Complaint and Response to Motion to Dismiss on November 24, 2010. Defendant then filed a Motion to Dismiss Plaintiff’s Second Amended Complaint on November 30, 2010. The magistrate judge concluded that Plaintiff’s November 24, 2010, Second Amended Complaint, failed to meet the pleading requirements of Rule 8 of the Federal Rules of Civil Procedure. The magistrate judge recommended that this court deny without prejudice Defendant’s Motions to Dismiss and allow Plaintiff to file a final amended complaint within 10 days of the order accepting his recommendation.

A simple statement that Plaintiff *believes* he was fired because he is African-American is insufficient to plead a claim of race discrimination under Rule 8 of the Federal Rules of Civil Procedure. Plaintiff must set forth specific allegations that would demonstrate that he was treated differently because of his race, that is, he must set forth sufficient allegations that race was the reason he was terminated. Plaintiff's belief or speculation that he was treated differently because of his race without supporting allegations is insufficient to state a claim for race discrimination. In Plaintiff's January 10, 2011, Final Amended Complaint, Plaintiff fails to meet the pleading requirements of Rule 8 and those necessary to survive a motion to dismiss under Rule 12(b)(6). Being that Plaintiff is proceeding pro se, the court will allow Plaintiff one final chance to file an amended complaint that complies with the rules of pleading. Accordingly, Plaintiff is instructed to file an amended complaint that pleads sufficient facts to allege a claim of race discrimination under Title VII of the Civil Rights Act of 1964.

Having reviewed the pleadings, file, record in this case, and the Report, the court determines that the findings and conclusions are correct. They are therefore **accepted** as those of the court. For the reasons herein stated, the court **denies** Defendant's Motions to Dismiss. Plaintiff is **directed** to file an final amended complaint by **March 17, 2011**. If Plaintiff fails to file an amended pleading that meets the requirements of Rule 8 and is insufficient to survive a Rule 12(b)(6) motion, this court will dismiss this action pursuant to Rule 12(b)(6) or Rule 41(b) of the Federal Rules of Civil Procedure for failure to comply with a court order.

It is so ordered this 18th day of February, 2011.



Sam A. Lindsay
United States District Judge